

REMARKS/ARGUMENTS

In the Official Action, the Examiner rejects Claims 1, 11, 12, 17, and 20 provisionally on the basis of obviousness-type double patenting as being unpatentable over Claims 1, 18, 19, 24, and 28 of copending US Patent Application 10/774,001. This grounds for rejection is respectfully traversed.

In a prior Official Action, the Examiner asserted that Claim 1 of USSN 10/774,001 is broader in scope than Claim 1 of the present application and entered a double patenting rejection on that basis. That grounds for rejection has been withdrawn, but now the Examiner has changed his approach (by basically 180 degrees) and asserts that Claim 1 of the present application, for example, is broader in scope than are the claims of USSN 10/774,001. With all due respect, the Applicant disagrees. Claim 1 in this application recites, *inter alia*, "a plurality of optical gain regions and a plurality of optical lossy regions, said plurality of optical lossy regions being lossy at a signal wavelength of the gain medium and isolating the plurality of optical gain regions from one another." That limitation is not found in Claim 1 of USSN 10/774,001, and to that extent, Claim 1 of the present application is narrower than Claim 1 of USSN 10/774,001. The Examiner's assertion to the contrary does not stand up to analysis.

Similarly, the limitation quoted above found in Claim 1 of the present application cannot be found in Claim 18 of USSN 10/774,001. Since that limitation is not found in Claim 18, Claim 1 of the present application is not broader than is Claim 18 of USSN 10/774,001. The Examiner's assertion to the contrary is not correct.

It is believed that the limitation quoted above with respect to Claim 1 is not found in any of Claims 19, 24, or 28 of USSN 10/774,001 so it is not seen how Claim 1 can be considered to be broader than those claims when those claims omit a limitation found in Claim 1 of the present application.

Note also that Claim 1 refers to “a signal wavelength of the gain medium”. Note the interaction of that limitation with the recitation of the optical lossy regions. It is not seen how Claim 1 could be considered to be broader than any of the claims in USSN 10/774,001 when the claims appear not to include any such language.

Turning now to the rejection of Claim 11, Claim 11 recites, *inter alia*, “a plurality of gain regions and a plurality of lossy regions, said plurality of lossy regions isolating the plurality of gain regions from one another.”

If Claim 11 is broader than Claim 1 of USSN 10/774,001, then that limitation would have to be found in Claim 1 of USSN 10/774,001. Since it does not appear there, why is Claim 11 allegedly broader than Claim 1 of USSN 10/774,001? Note also that Claim 11 recites “a plurality of lossy regions” whereas Claim 1 of USSN 10/774,001 recites a “plurality of gain regions and a passive/lossy region or regions”. It would seem with respect to that particular limitation, Claim 1 of USSN 10/774,001 is broader than Claim 11 of the present application. The Examiner’s assertion to the contrary does not stand up to analysis.

That is not to mean, however, that Claim 1 of USSN 10/774,001 is overall broader than is Claim 11 of the present application since that claim recites, as noted to the Examiner in the last response, that “said gain regions being responsive, in use, in electric fields...”, a limitation which is not found in Claim 1 of the present application.

The fact is that these claims are patentably distinct, one from each other.

In a similar vein, it is not seen how Claim 11 of the present application is supposed to dominate any claim of USSN 10/774,001. Claims 1, 18, 19, 24, and 28 are broader insofar as they used the term “passive/lossy regions” than is Claim 11 of the present application and therefore Claim 11 cannot possibly dominate them. The Examiner’s assertions to the contrary are not correct.

Claim 12, rejected by the Examiner, does not need to be analyzed since it is dependent upon Claim 11, and if Claim 11 does not dominate the claims of the copending application, neither does Claim 12.

Claim 17 also refers to "lossy regions". Note that the claims which is claimed supposedly dominates includes a possibility of "passive/lossy regions". The inclusion of the "lossy regions" terminology in Claim 17 means that it does not dominate the claims cited by the Examiner in the copending application.

Since Claim 20 depends from Claim 17, it also cannot dominate the claims of the copending application for the reasons given with respect to Claim 17.

The double patenting rejections are without merit. It is acknowledged that, to a certain extent, the claims of this application do bear some similarity to the claims of the copending application. But just because they are similar, does not mean that they necessarily patentably overlap one another. For the reasons given in this response and in the prior response, it is submitted that the claims do not dominate one another. The Examiner is thanked for the indication of allowable subject matter and for the allowance of certain claims in this application, but it is submitted that all of the claims in this application patentably distinguish themselves from both the prior art and from the claims in the copending application at USSN 10/774,001.

Reconsideration is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

Response to Official Action

Dated 11 December 2006

Re: USSN 10/774,002

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(Date of Deposit)

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Respectfully submitted,

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